HONOURABLE SRI JUSTICE B. SESHASAYANA REDDY

W.P.Nos.25593 of 1997 and C.C.No.1692 of 2004

Dated 24th February, 2006

Between:

Noor Basha Mahaboob Subhan,

S/o.Sri Subbarayudu, 30 years,

R/o.Rajampet, Cuddapah District .. Petitioner

And

The Sub-Registrar of Stamps,

Rajampet, Cuddapah District

and another .. Respondents

COMMON ORDER:

Heard the learned counsel for both the parties.

The brief facts giving rise to filing the writ petition are as follows:

The petitioner purchased an extent of 33¼ cents of land situated in S.No.166 of Utukuru village, Rajampet Mandal, Cuddapah District for a consideration of Rs.2,26,000/- from the 2nd respondent under a registered sale deed dated 30.12.1996. It appears that the 2nd respondent cancelled the sale deed under registered document dated 29.3.1997 and got registered the cancellation deed before the 1st respondent-Sub-Registrar, Rajampet. Since the petitioner's efforts

before the 1st respondent in preventing the registration of cancellation deed proved futile, he approached this Court by invoking jurisdiction under Article 226 of the Constitution of India with a prayer to declare the action of the 1st respondent in registering the cancellation deed as illegal and arbitrary.

The 1st respondent filed a counter affidavit wherein it is stated that the petitioner presented an application before the registering authority not to register the cancellation deed after three days of the registration of the cancellation deed. Paragraph 5 of the counter affidavit needs to be noted and it is thus:

> *"With regard to the allegation made in Para 6 of the petitioner's affidavit, it is submitted that the cancellation deed was registered as document No.502/97 of Book I of Sub-Registrar's Officer, Rajampet on 29.3.1997. The document was copied and delivered to the nominee on 29.3.1997 itself as per rules in force. The fact of issue of notice to the Purchaser (petitioner) by the seller (2nd respondent) was mentioned in the cancellation deed i.e. 502/97. The petitioner submitted a protest petition stating that not to register the cancellation or any deed in respect of document No.1642/96 of Sub-Registrar's Office, Rajampet on 31.3.1997 through his Advocate i.e. three days after registration of cancellation deed. In response to the protest petition, the petitioner was advised to approach a Court of law for redressal of his grievance as per the rules followed by this department after collecting the prescribed fee of Rs.5/-. As per the contention of the petitioner that the total consideration of Rs.2,26,000/- was paid at the time of registration. The petitioner-vendee has not paid the consideration of the document in my presence to the vendor in case the consideration is paid before the Sub-Registrar at the time of Registration, an endorsement to the effect has to be made on the document and the signatures of the vendee and vendor have to be obtained as per rules in force. There is no such endorsement made by the Sub-Registrar on the back of the document as the party has not paid consideration at the time of Registration before Registering authority."*

The issue involved in this writ petition is squarely covered by a judgment rendered by a Division Bench of this Court in W.A.No.1486

of 2004, dated 11.10.2004 in **The Karimnagar Education Society Vs. The District Registrar and Others** wherein, it is has been held to the following effect:

> *"The short question that falls for consideration is whether the registering authority is duty bound to make any enquiry as such before registering the deeds of cancellation. The learned counsel for the appellant very fairly stated before us that there is no provision, which enables or obligates the registering authority to make any such enquiry before registering the cancellation deed. In such view of the matter, in our considered opinion, the public law remedy invoked by the appellant herein is ill suited to resolve the controversy between the appellant and the 3rd respondent. The dispute essentially is between the appellant and the 3rd respondent. The 3rd respondent having executed the gift deed appears to have cancelled the document and according to the appellant, without any reason or justification. That dispute lies essentially in the realm of private law, which is required to be adjudicated only in a common law proceeding".*

There is no provision in the Registration Act which enables or obligates the registering authority to make any such enquiry before registering the cancellation deed.

In such view of the matter, I find that the writ petition is devoid of merits and the same is accordingly dismissed. Since the writ petition is dismissed, there is no need to pass any order in the Contempt Case and accordingly the same is closed.

24.02.2006

bcj